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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/798,064	03/11/2004	Susanne Arney	10-18-4	5680
7590 08/26/2010				
Michael J. Urbano 1445 Princeton Drive Bethlehem, PA 18017-9166				
EXAMINER				
PELLEGRINO, BRIAN E				
ART UNIT		PAPER NUMBER		
3738				
MAIL DATE		DELIVERY MODE		
08/26/2010		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

**Advisory Action**  
**After the Filing of an Appeal Brief**

<b>Application No.</b>	<b>Applicant(s)</b>	
10/798,064	ARNEY ET AL.	
<b>Examiner</b>	<b>Art Unit</b>	
Brian E. Pellegrino	3738	

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

The reply filed 14 June 2010 is acknowledged.

1. ☒ The reply filed on or after the date of filing of an appeal brief, but prior to a final decision by the Board of Patent Appeals and Interferences, will not be entered because:

a. ☒ The amendment is not limited to canceling claims (where the cancellation does not affect the scope of any other pending claims) or rewriting dependent claims into independent form (no limitation of a dependent claim can be excluded in rewriting that claim). See 37 CFR 41.33(b) and (c).

b. ☐ The affidavit or other evidence is not timely filed before the filing of an appeal brief.  
See 37 CFR 41.33(d)(2).

2. ☐ The reply is not entered because it was not filed within the two month time period set forth in 37 CFR 41.39(b), 41.50(a)(2), or 41.50(b) (whichever is appropriate). Extensions of time under 37 CFR 1.136(a) are not available.

Note: This paragraph is for a reply filed in response to one of the following: (a) an examiner's answer that includes a new ground of rejection (37 CFR 41.39(a)(2)); (b) a supplemental examiner's answer written in response to a remand by the Board of Patent Appeals and Interferences for further consideration of rejection (37 CFR 41.50(a)(2)); or (c) a Board of Patent Appeals and Interferences decision that includes a new ground of rejection (37 CFR 41.50(b)).

3. ☐ The reply is entered. An explanation of the status of the claims after entry is below or attached.

4. ☐ Other:

Note that claim 7 (prior to the amendment) stated the "control device .....capable of releasing said agent or drug...". The amendment to add intervening claims (i.e. claim 7) to claim 8, does not recite that the control device "controls" the drug, but has been changed to "varying said hydrophobicity" and thus the scope has been changed. This is impermissible because it does not simplify issues.

/Brian E Pellegrino/  
Primary Examiner, Art Unit 3738